



General Assembly

***Substitute Bill No. 1057***

*January Session, 2001*

***AN ACT CONCERNING BENEFICIARY INTERESTS IN FIDUCIARY MATTERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) As used in sections 1 to 6, inclusive, of this act:

2       (1) "Fiduciary matters" means (A) any property or interest in  
3       property held as part of a trust; (B) actions by or against a trust or by or  
4       against the trustee of such trust, in its capacity as such trustee; (C)  
5       proceedings for the interpretation of any document creating a trust or  
6       other instrument pursuant to which property is held by a trustee; (D)  
7       accountings, whether intermediate or final, of any trustee; and (E) any  
8       other matters concerning the administration of a trust. Any reference  
9       to a trust in this act shall include both testamentary and  
10      nontestamentary trusts.

11      (2) "Represent" shall not be construed to permit a person who has  
12      not been admitted as an attorney under the provisions of section 51-80  
13      of the general statutes to serve as legal counsel for any other person in  
14      a fiduciary matter.

15      Sec. 2. (NEW) To the extent there is no conflict of interest between  
16      the holder of a power of appointment and the persons represented  
17      with respect to the particular question or dispute: (1) The sole holder  
18      or all coholders of any power of appointment, whether or not  
19      presently exercisable, shall represent the potential appointees; and (2)

20 the sole holder or all coholders of a power of revocation or a general  
21 power of appointment, including one in the form of a power of  
22 amendment, shall also represent the takers in default of the exercise  
23 thereof.

24       Sec. 3. (NEW) To the extent there is no conflict of interest between  
25 the representative and the person represented or among those being  
26 represented with respect to a particular question or dispute: (1) A court  
27 appointed conservator or guardian of the estate may represent and  
28 bind the estate that the conservator or guardian controls; (2) a court  
29 appointed conservator or guardian of the person may represent and  
30 bind the ward if a conservator or guardian of the ward's estate has not  
31 been appointed; (3) an agent having authority to do so may represent  
32 and bind the principal; (4) a trustee may represent and bind the  
33 beneficiaries of the trust; (5) an executor or administrator of a  
34 decedent's estate may represent and bind persons interested in the  
35 estate; and (6) if a conservator or guardian has not been appointed, a  
36 parent may represent and bind the parent's minor or unborn child.

37       Sec. 4. (NEW) Unless otherwise represented, a minor, incapacitated  
38 or unborn individual, or a person whose identity or location is  
39 unknown and not reasonably ascertainable, may be represented by  
40 and bound by another person having a substantially identical interest  
41 with respect to the particular question or dispute, but only to the  
42 extent there is no conflict of interest between the representative and  
43 the person being represented.

44       Sec. 5. (NEW) (a) If the court determines that an interest is not  
45 represented under sections 2 to 4, inclusive, of this act, or that the  
46 otherwise available representation might be inadequate, the court may  
47 appoint a guardian ad litem to receive notice, give consent, and  
48 otherwise represent, bind and act on behalf of a minor, incapacitated  
49 or unborn individual, or a person whose identity or location is  
50 unknown. A guardian ad litem may be appointed to represent several  
51 persons or interests.

52 (b) A guardian ad litem may act on behalf of the individual  
53 represented with respect to any fiduciary matter, whether or not a  
54 judicial proceeding is pending.

55 (c) In making decisions, a guardian ad litem may consider general  
56 benefit accruing to the living members of the individual's family.

57 Sec. 6. (NEW) (a) Notice to a person who may represent and bind  
58 another person under sections 2 to 5, inclusive, of this act, has the same  
59 effect as if notice were given directly to the other person.

60 (b) The consent of a person who may represent and bind another  
61 person under sections 2 to 5, inclusive, of this act, is binding on the  
62 person represented, unless the person represented objects to the  
63 representation before the consent would otherwise have become  
64 effective.

65 (c) Sections 2 to 5, inclusive, of this act shall apply to all judicial  
66 proceedings and all nonjudicial settlements, agreements or acts  
67 pertaining to fiduciary matters.

**JUD**      **JOINT FAVORABLE SUBST.**